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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,851	11/28/2001	Thomas Virtanen	BP103051/TL/SHU	5448

466 7590 02/09/2004

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EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/994,851

Applicant(s)

VIRTANEN, THOMAS

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-26 is/are allowed.
- 6) ☒ Claim(s) 1-18 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant has cancelled claims 27-32 and added claim 33 in paper no. 11

#### ***Claim Rejections - 35 USC § 103***

Claims 1-11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/00730 to Harder as in the previous rejection of paper no. 9.

Regarding claim 33, Harder discloses the distance between the centers of the projections (6) as being greater than their widths as can be seen in the drawing.

#### ***Claim Objections***

Claims 12, 13 and 16-18 are objected to.

#### ***Allowable Subject Matter***

Claims 19-26 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed 1/13/04 have been fully considered but they are not persuasive. Applicant argues that the prior art (Harder) does not disclose bonding of the plastic bodies 6 to the bituminous layer 5 by the effect of their material properties. However, harder discloses the bodies bonded to the layer. As claimed, Harder meets the basic claim structure of the instant application because the bodies are bonded to the layer. Further, with regard to the effect of their properties in aiding bonding, it is clear

that the plastic used in the bodies is capable of bonding to the layer. If the properties of the plastic did not allow bonding, then they would clearly not bond. In the situation of harder, the materials allow bonding because they are clearly bonded. Applicant argues that the dampening plastic bodies are not continuous strips. However, the applicant has not claimed continuous strips. Claim 1 states "intermittently continuous strips" on page 4, line 2 of paper no 11. Intermittently continuous is being understood as a continuous strip having regular breaks. This is clearly not a one piece strip. Harder discloses a strip of plastic bodies (6) which are intermittently continuous, as can be seen in the drawing stretching from left to right. Applicant also argues that the support surface under the bituminous layer (5) is not flat. However, harder does disclose a flat surface. As can be seen in the drawing, 5 has a flat bottom surface which has the plastic bodies pressed against it. Note component 5 in the center of the drawing, directly below the number 9. The undersurface is flat where not pressed by the plastic bodies. Likewise between the plastic bodies the under surface is also flat.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK *RT*

2/5/04

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600